

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-10571-RWZ

JOSEPH P. SCHMITT

v.

THOMAS CARTER, et al.

CIVIL ACTION NO. 06-10569-RWZ

JOSEPH P. SCHMITT, et al.

v.

MASSACHUSETTS DEPARTMENT OF CORRECTIONS, et al.

CIVIL ACTION NO. 06-10766-RWZ

JOSEPH P. SCHMITT

v.

SPECIAL INVESTIGATOR STEVEN KENNEDY, etc., et al.

PROCEDURAL ORDER

AUGUST 11, 2006

ZOBEL, D.J.

In the case numbered Civil Action No. 05-10571 plaintiff has filed a second motion to amend the complaint. The motion does not describe the nature of the amendment and the proposed amendment is not attached to the motion. The court

cannot therefore evaluate the amendment. The motion is denied unless plaintiff submits the proposed amendment within 14 days of the date of this order.

The two cases filed in 2006, Civil Actions Nos. 06-10569 and 06-10766, are substantially identical and in each plaintiff has filed substantially identical motions for leave to amend the complaint. Under Rule 15 (a), Fed. R. Civ. P., plaintiff may amend his complaint “once as a matter of course at any time before a responsive pleading is served....” Since no responsive pleading has been filed in either case, plaintiff does not need leave of court to amend. Accordingly, the motions are denied as unnecessary.

August 11, 2006

DATE

/s/Rya W. Zobel

RYA W. ZOBEL

UNITED STATES DISTRICT JUDGE